

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

MATTHEW CHOY,

Plaintiff,

vs.

WILLIAM BARZEE, esq, Southern District of Florida;

Defendant.

**8:24CV71**

**MEMORANDUM AND ORDER**

On February 20, 2024, Plaintiff Matthew Choy filed an unsigned Complaint, Filing No. 1. On February 22, 2024, the Clerk of Court advised Plaintiff that his Complaint was unsigned and therefore deficient. The Clerk of Court directed Plaintiff to “correct the deficiency” (i.e., file a signed Complaint) within 14 days, or the pleading “may be stricken from the record of this case.” Filing No. 4 (text order). Plaintiff has failed to follow the Clerk of Court’s directions.

In addition, on March 4, 2024, Plaintiff filed a motion for leave to proceed in forma pauperis (“IFP”). Filing No. 5. However, his motion does not comply with the terms of [28 U.S.C. § 1915](#), the statute authorizing proceedings in forma pauperis. See [28 U.S.C. § 1915\(a\)\(1\)](#) (requiring the plaintiff to submit “an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor”). Plaintiff has the choice of either submitting the \$405.00 filing and administrative fees to the Clerk’s office or submitting a request to proceed in forma pauperis that complies with [28 U.S.C. § 1915](#).<sup>1</sup>

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<sup>1</sup> If Plaintiff is granted leave to proceed IFP in this matter, he will be allowed to pay the Court’s \$350 filing fee in installments. See [28 U.S.C. § 1915\(b\)\(1\)](#); *In re Tyler*, 110 F.3d 528, 529–30 (8th Cir. 1997). He would not be subject to the \$55.00 administrative fee assessed to non-IFP plaintiffs. Prisoner plaintiffs

Accordingly, the Court shall order Plaintiff to file a signed Complaint in accordance with [Federal Rule of Civil Procedure 11](#) and the Court's Local Rules and either submit the \$405.00 filing and administrative fees or a request to proceed in forma pauperis that complies with [28 U.S.C. § 1915](#). This matter cannot proceed until the foregoing deficiencies are corrected. FAILURE TO CORRECT THE DEFECTS WITHIN 30 DAYS WILL RESULT IN DISMISSAL OF THE COMPLAINT WITHOUT FURTHER NOTICE.

IT IS THEREFORE ORDERED that:

1. Plaintiff's motion to proceed in forma pauperis, Filing No. 5, is denied without prejudice to reassertion in a motion to proceed IFP that complies with [28 U.S.C. § 1915](#).
2. Plaintiff is directed to correct the above-listed technical defects on or before **April 17, 2024**. To be clear, Plaintiff must (1) file a signed copy of his Complaint and (2) either pay the \$405.00 filing and administrative fees or submit a request to proceed in forma pauperis to the Clerk's office. Failure to comply with this Memorandum and Order will result in dismissal of this matter without prejudice and without further notice.
3. The Clerk of the Court is directed to send to Plaintiff the Form AO240 ("Application to Proceed Without Prepayment of Fees and Affidavit").
4. The Clerk of the Court is directed to set a pro se case management deadline in this matter with the following text: **April 17, 2024**: deadline for signed Complaint and MIFP or payment.

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are required to pay the full amount of the Court's \$350.00 filing fee by making monthly payments to the Court, even if the prisoner is proceeding IFP. [28 U.S.C. § 1915\(b\)](#).

Dated this 18th day of March, 2024.

BY THE COURT:



Joseph F. Bataillon  
Senior United States District Judge